



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.           | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------------|------------------|
| 10/597,542  | 07/28/2006  | Thomas McGee         | 102790-172 (30051 US)         | 2514             |
| 27389 7590 06/18/2008<br>NORRIS, MCLAUGHLIN & MARCUS<br>875 THIRD AVE<br>18TH FLOOR<br>NEW YORK, NY 10022 |             |                      | EXAMINER<br>BETTON, TIMOTHY E |                  |
|   |             |                      | ART UNIT                      | PAPER NUMBER     |
|   |             |                      | 1617                          |                  |
|   |             |                      | MAIL DATE                     | DELIVERY MODE    |
|   |             |                      | 06/18/2008                    | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                     |  |
|------------------------------|--------------------------------------|-------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/597,542 | <b>Applicant(s)</b><br>MCGEE ET AL. |  |
|                              | <b>Examiner</b><br>TIMOTHY E. BETTON | <b>Art Unit</b><br>1617             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-13 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### Election/Restriction

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1. In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-5 are drawn to a method of simultaneously preventing the growth of fungi on substrates and imparting thereto a desired odour, by supplying to the substrate a fragrance whose fragrant properties are derived mainly from the presence in the fragrance of at least two fragrance components selected from the group as disclosed in claim 1.

Group II, claim(s) 6-13 are drawn to a composition comprising at least two compounds selected from the group as disclosed in claim 6.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The inventions of Groups I and II are distinct based on Group I being drawn to a method and claim 6 drawn to a composition. They differ with respect to subject matter. They therefore have different issues regarding patentability and enablement and represent patentable distinct subject matter, and therefore, lack and the same or corresponding special technical feature. For instance, Dodd et al. teach (USPN 6,656,456) the present invention relates to aqueous gel compositions comprising an odor controlling agent for

Art Unit: 1617

deodorizing skin surfaces. Articles of manufacture and methods of deodorizing the skin using disclosed compositions are also disclosed (Abstract only).

This application contains claims directed to more than one species of the generic invention.

These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows for claims 1-5:

Applicant is to elect 2 (two) fragrance component species from list a-f.

- a) Cyclic aldehydes;
- b) cyclic alcohols
- c) branched or unbranched linear aldehydes
- d) branched or unbranched linear alcohols
- e) phenols
- f) lactones

Applicant is to elect **at least one fragrance** component species from the group disclosed in claim 3.

Ex. 4, 7-methano-indene- 1-carbaldehyde

This application contains claims directed to more than one species of the generic invention.

These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows for claims 6-13:

- a) Applicant is to elect at least two compounds of the said composition selected from claim 6 as disclosed.

Ex. 2-phenyl-ethanol and 3-phenyl-propanol

Applicant is to elect whether the linear alcohols and aldehydes as disclosed within claim 1 and all dependent claims are branched or unbranched. Applicant is required to further distinguish the claimed invention by electing:

- (1) branched
- (2) unbranched

Further, applicant is required to elect one, specific phenol (claim 6).

Applicant is required to elect one, specific lactone (claim 7).

Applicant is required to elect one, specific and exact compounds of claim 7.

Ex. undec-10-ene-1-ol.

Further for instant claim 6-13, particularly claims 8-13, a species is required to be elected from one of the following six claims (8-13).

Ex. a non-aqueous liquid composition comprising organic solvent

Applicant is required, in reply to this action, to elect a single species from each of the two groups to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy E. Betton whose telephone number is (571) 272-9922. The examiner can normally be reached on Monday-Friday 8:30a - 5:00p.

Art Unit: 1617

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shengjun Wang/

Primary Examiner, Art Unit 1617